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# THE ANDHRA PRADESH GAZETTE

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HYDERABAD, TUESDAY, MAY 31, 2011.

## NOTIFICATIONS BY GOVERNMENT

—X—

### HOME DEPARTMENT

(*Ser. - I*)

PREPARATION OF FINAL INTEGRATED SENIORITY LIST OF DEPUTY SUPERINTENDENTS OF POLICE (CIVIL) IN ANDHRA PRADESH POLICE SERVICE - AMENDMENT.

[G.O.Ms.No. 132, Home (Ser.-I), 27th May, 2011.]

**Read the following :-**

1. G.O.Ms.No.24, Home (Ser-I) Department, dated 9.2.2007.
2. G.O.Ms.No.111, Home (Ser-I) Department, dated 31.5.2007.
3. From the Hon'ble APAT, Hyderabad judgment dated 9.7.2010 in O.A.No.3669/2007.
4. From the Director General of Police, A.P., Hyderabad Lr. Rc. No.344/G3/2006-10, dated 8.9.2010.
5. From Sri S.J. Janardhan, S.P. (NC) (Admn), E.G. Dist, Kakinada, representation dated 19.9.2010.
6. Govt. Memo. No.26524/Ser.I/Al/2010-1, dated 28.9.2010.
7. From the Director General of Police, A.P., Hyderabad Lr. Rc. No.344/G3/2010, dated 13.10.2010 & 28.10.2010.
8. From the Hon'ble High Court of A.P., Hyderabad orders dated 24.11.2010 in W.P.Nos.26495, 27748 and 27749 of 2010.
9. From the Hon'ble APAT, Hyderabad judgment dated 29.4.2011 in O.A.Nos. 7403 and 7477 of 2010.

In the G.O. 1<sup>st</sup> read above, the provisional seniority list of Deputy Superintendent of Police (Civil) was published, consisting of 561 members for the panel years 1990-91 to 31.12.2006, wherein the names of **Sri S.J. Janardhan and Sri K. Madhava Rao, convertes Deputy Superintendents of Police** from the category of Asst. Commandants, APSP Bns., were shown at **Sl.Nos. 159 and 160**, adopting their dates of regularisation issued in G.O.Ms.Nos.260 and 261, dated 6.8.2002 ie., counting of their service in the cadre of Asst. Commandant, APSP Bns., for the purpose of seniority of Deputy Superintendent of Police (Civil).

2. But in the final integrated seniority list of Deputy Superintendents of Police (Civil) published in the G.O. 2<sup>nd</sup> read above, the names of Sri S.J. Janardhan and Sri K. Madhava Rao, were **pushed down** and shown as

**Sl. Nos. 278 and 276** respectively, without giving any notice to them, duly restricting their seniority from the date of conversion as Deputy Superintendents of Police (Civil), ignoring their service rendered in the category of Asst. Commandant, APSP Bns.,

3. Aggrieved by the G.O. 2<sup>nd</sup> read above, Sri S.J. Janardhan, Addl. Superintendent of Police (NC) filed W.P. No. 3633/2008, and Sri K. Madhava Rao, Addl. Superintendent of Police (NC) also filed O.A.No. 2579/2008 on the same issue i.e., against pushing them down in the seniority in the cadre of D.S.P. vide G.O. 2<sup>nd</sup> read above. The Hon'ble High Court of A.P., in its interim orders dated 25.4.2008 in W.P. No. 3633/2008 has directed the respondents to effect promotion to the posts of next higher cadre i.e., Superintendent of Police (NC) on the basis of the provisional seniority in the category of Deputy Superintendent of Police and such promotions shall strictly be construed as adhoc promotions only without confining any right subject to the further orders that may be passed. The Hon'ble Tribunal in O.A.No. 2579/2008 also extended the same relief in respect of Sri K. Madhava Rao. Accordingly, adhoc promotions to the category of Superintendents of Police (NC) were considered, and made as per the orders of the Hon'ble High Court and APAT.

4. The Government on careful re-examination of the matter have noticed that Sri S.J. Janardhan and Sri K. Madhava Rao, Asst. Commandants, APSP Bns., were converted as Deputy Superintendents of Police (Civil) vide G.O. Ms.No.397, Home Department, dated 12.11.1996 and G.O. Ms.No.206, Home Department, dated 6.5.1996 respectively, **prior** to the present Special rules i.e., **as per pre-amended service rules**, wherein there is a provision for conversion. Their seniority was also already fixed by the Government vide G.O. Ms. No. 261, Home Department, dated 26.08.2002 **with effect from 26.5.1993**, and G.O. Ms.No.260, Home Department, dated 26.08.2002 **with effect from 30.6.1993**, respectively. Based on the said seniority, they were promoted as Addl. Superintendents of Police (NC) vide G.O.Ms.No.19, Home Department, dated 17.1.2003. Keeping in view of these dates of seniority, their regularization dates in the provisional seniority was fixed as 17.6.1996 at Sl.Nos.159 and 160, vide G.O.Ms.No. 24, Home (Ser.I) Department, dated 9.2.2007.

5. It is also seen that as per **clause (c) and (d) under rule 3 (a)** of the pre-amended Police Service Rules in **G.O.Ms.No.2437**, Home Department, dated **8.11.1966**, there was a provision for appointment of Assistant Commandant, APSP Bns., (i.e., Category-III) **as** Deputy Superintendent of Police (Civil) (i.e., Category-II), not exceeding two in a calendar year, with the concurrence of A.P. Public Service Commission. The proportion in which substantive vacancies shall be filled or reserved to be filled by direct recruitment **and transfer including** appointments made from category-3 referred to in clause (c) above shall be **1 : 2**. Further as per **Rule 3 (b)** of the said Special Rules provides that the **seniority** of the Deputy Superintendent of Police Category-II, appointed from the post of Deputy Superintendent of Police **Category-III, shall be fixed** in that manner **giving them credit for their entire service in the posts of Deputy Superintendent of Police Category-III**. Sri S.J. Janardhan and Sri K. Madhava Rao, were appointed by transfer as Deputy Superintendents of Police (Civil) i.e., Category-II, from the category of Asst. Commandants, APSP Bns., i.e., Category-III, as per pre-amended service rules which provides for reckoning of the past service of Asst. Commandant, APSP for the purpose of seniority of Deputy Superintendent of Police (Civil). Hence, the orders issued vide G.O. Ms. No.111, Home (Ser.I) Department, dated 31.5.2007 are not in consonance with the said rule provision, and requires modification.

6. It is keeping the above facts in view that, while publishing the final seniority list of Addl. Superintendents of Police (NC), vide G.O. Ms.No.92, Home (Ser.I) Department, dated 19.4.2010, the Government have assigned the seniority to Sri S.J. Janardhan and Sri K. Madhava Rao, adopting the provisional seniority list of Deputy Superintendents of Police published in G.O. Ms.No.24, Home (Ser-I) Department, dated 9.2.2007, subject to outcome of the W.P.No. 3633/2008.

7. In the reference 3<sup>rd</sup> read above, the Hon'ble A.P.A.T., in its orders dated 9.7.2010 in O.A.No. 3669/2007 filed by Sri S.J. Janardhan, directed the respondents to review the seniority of the applicant duly taking into consideration G.O.Ms.No.261, Home Department, dated 26.8.2002, (i.e., wherein his seniority was fixed from 26.5.1993 reckoning the past service of Asst. Commandant, APSP for the purpose of D.S.P. (Civil) seniority and fix his seniority in the cadres of Deputy Superintendent of Police, Cat-II and Addl. Superintendent of Police and pass appropriate orders, as per existing rules in force.

8. The Director General of Police, A.P., Hyderabad, in his letter 4<sup>th</sup> read above, requested the Government to assign confirmation dates in respect of all the members figured in G.O. Ms.No. 111, Home (Ser.I) Department, dated 31.5.2007.

**9.** The Government after careful examination of the matter, in the light of the above facts and rules, have provisionally decided to include the names of Sri S.J. Janardhan **and** Sri K. Madhava Rao, at Sl. No. **158 (a) and 158 (b)**, respectively in the final seniority list of Deputy Superintendents of Police (Civil) published vide G.O.Ms. No.111, Home (Ser.I) Department, dated 31.5.2007, below Sri A.Radha and above Sri N. Daniel, keeping in view the provisional seniority list issued in G.O. Ms.No.24, dated 9.2.2007, by way of **an amendment**, subject to outcome of the W.P. No. 3633/2008.

**10.** Accordingly, in the reference 6<sup>th</sup> read above, a show-cause-notice was issued to the affected members calling for their objections, if any, **within (15) days** from the date of receipt of that Memo, on the proposed inclusion. If no objections are received within the stipulated time, it will be construed that they have no objection and further action will be taken accordingly.

**11.** In the letters 7<sup>th</sup> read above, the Director General of Police, A.P., Hyderabad, has forwarded the objections/ approvals of the following (18) members for taking further action.

Sl. No.	Name S/Sri:
1.	S.V. Rajasekhar Babu, S.P. (NC) SIB (Int.), Hyderabad.
2.	G. Vijay Kumar, S.P. (NC) CSO to Hon'ble CM.
3.	A.V. Ranganath, S.P. (NC), GC, Greyhounds, VSP.
4.	S. Hari Krishna, S.P. (NC), ADC to Hon'ble Governor of A. P.
5.	L.S. Chowhan, S.P. (NC) Admn., Anantapur.
6.	K. Ramesh Naidu, S.P. (NC) V&E, Hyderabad.
7.	M. Ravi Prakash, S.P. (NC), SIB (Int.), Hyderabad.
8.	V. Satyanarayana, S.P. (NC) CSO to Hon'ble C.M.
9.	R.N. Ammi Reddy, S.P. (Admn.) Karimnagar.
10.	P. H.D. Rama Krishna, S.P. C.I. Cell, (Int.), Hyderabad.
11.	M. Ravindranath Babu, D.C.P., Vijayawada.
12.	Smt. J. Parimala Hana Nutan, S.P. (NC) Principal, PTC, Warangal.
13.	Smt. B. Sumathi, S.P. CID, Hyderabad.
14.	K. Narayana Naik, GC, Greyhounds, Hyderabad.
15.	M. Sreenivasulu, Addl. DCP, (Task Force).
16.	K.V. Mohan Rao, S.P. (NC) Regional V&E, Nellore.
17.	N. Daniel, S.P. (NC).
18.	T. Narasinga Rao, S.P. (NC) Retired, OSD, SIB, Hyderabad.
19.	L. Venkateswarlu, D.S.P. (Retd.).
20.	K. Sundara Rami Reddy, D.S.P. (Retd.).
21.	M.N. Lakshmipathi, D.S.P. (Retd.).
22.	G.M. Chandra Babu, D.S.P. (Retd.).
23.	M.H. Roshan, D.S.P. (Retd.).

**12.** In the meanwhile, Smt. J.Parimala Hana Nutan and (7) other Direct Recruit Deputy Superintendents of Police filed O.A. Nos. 7477 and 7403 of 2010 against the show-cause notice issued by the Government issued vide Memo. 6<sup>th</sup> read above. The Hon'ble A.P.A.T. passed interim orders directing the respondents to maintain status quo on the applicants in both O.As. They have also filed W.P. No.26495/2010 before the Hon'ble High Court of A.P. against the orders of the Hon'ble Tribunal dated 9.7.2010 in O.A. No.3669/2010.

**13.** The Hon'ble High Court of A.P., in its orders in the reference 8<sup>th</sup> read above, while dismissing the W.P. Nos.26495, 27748 and 27749 of 2010, directed the Hon'ble Tribunal to dispose of the O.A. Nos.7477 and 7403 of 2010, on merits, uninfluenced by any of the observations made in the order, expeditiously.

**14.** The Hon'ble A.P. Administrative Tribunal, Hyderabad in the reference 9<sup>th</sup> read above, passed final orders, observing that "it is for the 1<sup>st</sup> respondent to take a decision after verification of the records whether the respondents 3 and 4 can be promoted by extending the notional seniority without substantive vacancies and to verify whether there are any substantive vacancies for accommodating respondents 3 and 4 as contended in the counter filed in O.A.No.7477/2010. The impugned proceedings are only show cause notice. Though, it is contended by the applicants that the respondents made up its minds to fix the seniority of the respondents 3 and 4 as proposed in the show cause notice, it is appropriate to direct the 1<sup>st</sup> respondent to consider the objections filed by the effected parties and decide whether the stand taken by it is correct or not and whether the objections taken by the affected parties are tenable or not. The 1<sup>st</sup> respondent has to pass appropriate orders after considering the objections raised by the affected parties and pass final orders according to rules. Unless and until the Government takes a stand whether there are substantive vacancies as on the date of notional seniority extended to the respondent No.3 and 4, it may not be possible to take a decision whether the applicants are entitled to the relief as prayed for".

**15.** In the light of the above circumstances, the Hon'ble A.P.A.T., **disposed of** the O.As., directing the parties to **file their objections** if any to the impugned Memo.No.26524/Ser.I/AI/2010-I, dated 28.9.2010 and after receipt of the objections the **1<sup>st</sup> respondent** has to answer the objections specifically and take final decision regarding the fixation of seniority of both parties at the respective place according to rules. **The parties of the O.As. are directed to file their objections within two weeks from the date of receipt of the order if not already filed**, raising the contentions by keeping in view the orders issued in G.O. Ms.No.260, Home Department, dated 26.8.2002 and G.O.Ms. No.261, Home Department, dated 26.8.2002 and the **1<sup>st</sup> respondent** has to pass appropriate orders as directed above within two months from the date of receipt of the objections.

**16.** In pursuance of the Hon'ble APAT judgement dated 29.4.2011, Sri PHD. Ramakrishna, Superintendent of Police (NC), Intelligence, Sri M.Srinivasulu, Addl. DCP, Task Force, Hyderabad, Sri K.Narayana Naik, Group Commander, Grey Hounds, Hyderabad, and Smt. B. Sumathi, Superintendent of Police (NC), Intelligence have submitted their additional/modified objections.

**17.** The main objections raised by the members are examined and are replied as mentioned hereunder:

Sl. No.	OBJECTIONS	REPLIES
	1. The Government is requested to clarify the objection raised in G.O. Ms.No.111, Home dated 31.5.2007, while pushing down the seniority of the individuals from provisional seniority, stating that no specific quota for converttees/ transferees and informing to reckon the seniority from the date of conversion.	As per clause (c) and (d) under rule 3 (a) of the pre-amended Police Service Rules issued in G.O. Ms.No.2437, Home dated 8.11.1966, there is a provision for appointment of Asst. Commandants, APSP Bns., (ie., Cat.III) as D.S.P. (Civil) (i.e., Cat.II), not exceeding two in a calendar year, with the concurrence of APPSC. <b>A ratio</b> is indicated as <b>1 : 2</b> for appointment by direct recruitment <b>and transfer including appointments made from category-3</b> . Further as per rule 3 (b) of the said Rules, their seniority can be reckoned from the initial date of appointment to the category of Asst. Commandant.  They were appointed a per pre-amended service rules in relaxation of relevant rules, when they were in force, which provides a <b>ratio</b> and <b>seniority</b> .

Since the orders issued in this regard in G.O. Ms. No.111, Home (Ser.I) Department, dated 31.5.2007, were not in consonance with the above position of rules and facts, it was decided to re-examine the matter.

2. As per Rule 5 E of the pre-amended service Rules, no D.S.P. Cat-3 shall be eligible for appointment as D.S.P. Cat.2, unless he possesses the qualifications prescribed in clause (ii) of sub rule (a) above.

The two individuals have not completed the minimum required service of 5 years as required in Rule 5 (E) of the said Rules. In spite of lack of eligibility their cases were considered for relaxation and converted as D.S.P. (Civil). Government should not relax the rules unless there is public interest. In these cases, there is no public interest is involved. Thus the relaxation given is against the principles of natural justice. Hence, requested to cancel the said conversion, since they were appointed in relaxation their seniority may not be counted with anterior date.

3. As per Circular Memo. No.57759/Ser.A/2004-1, G.A. Department, dated 20.5.2004, no request for revision of seniority for a period which is more than 3 years old shall be considered. It is well settled principle of law that settled matters cannot be unsettled after lapse of several years.
4. The Hon'ble APAT in O.A.No.3669/2007 filed by Sri S.J. Janardhan reads that "the respondents are directed to review the seniority at appropriate place and pass appropriate orders **as per existing rules in force**". But, according to the existing rules in force, there is no eligibility to the individuals for any conversion or any seniority.

Sri S.J. Janardhan and Sri K. Madhava Rao, Asst. Commandants, APSP Bns., were appointed on transfer as Deputy Superintendents of Police (Civil) vide G.O. Ms.No.397, Home Department, dated 12.11.1996 and G.O. Ms. No. 206, Home Department, dated 6.5.1996, in **relaxation** of rules. Their probation was also declared and also assigned seniority as per pre-amended service rules.

Further, the objection raised now is by officers who have not raised any issues either at the time of conversion or at the time of issue of G.O. Ms.No.260 and 261, dated 6.8.2002.

The said relaxation given to the individuals was during **1996** and reconsideration of the said relaxation at this distance of time is not feasible.

The provisional seniority of Deputy Superintendents of Police (Civil) was published vide G.O.Ms.No.24, Home (Ser.I) Department, dated 2.9.2007 showing their names at SI.Nos.159 and 160. But without giving any notice to them they were pushed down to SI.Nos.278 and 276 in the final seniority list. Immediately after publication of the final seniority list, they have filed O.As/ W.Ps. in the Courts.

Hence, the instructions issued in the Circular Memo. No.57759/Ser.A/2004-1, G.A.D. dated 20.5.2004 may not be applicable in the instant case.

The Hon'ble Tribunal in its order dated 9.7.2010 in O.A.No.3669/2007 directed to review the seniority of the applicant by taking into consideration of G.O. No. 261, Home Department, dated 26.8.2002 and fix his seniority in the cadre of D.S.P. Cat-II and Addl. S.P. at the appropriate places and pass appropriate orders as per the existing rules in force. The Hon'ble Tribunal did not accept the placement given to the individual in the final seniority issued in G.O. Ms. No.111, Home (Ser.I) Department, dated 31.5.2007. It does not mean that there is no provision for conversion or seniority as per the existing service rules issued in G.O.Ms.No.137, Home, dated 1.6.1998. They were already appointed during the pre-amended service rules. As per A.P. State & Subordinate Service Rules, whenever seniority is to be reviewed, show cause-notices have to be given to the affected parties.

5. As per State & Subordinate Service Rules the seniority of a member of service who is transferred on his own request from one unit to another unit, shall be fixed with reference to the date of his joining only in the latter unit.

Though the appointment was made on request, as per pre-amended service rules, there is a provision for appointment from the category of Asst. Commandant, APSP Bns., and also for reckoning of the seniority of Asst. Commandant for the category of D.S.P. (Civil). Since they were considered for appointment during the pre-amended service rules were in existence, reckoning of seniority can not be denied, in view of the rule provision available in the pre-amended service rules.

6. Some of the members have raised that they are not in receipt of copies of G.O. Ms.No.24, Home dated 9.2.2007 and G.O. Ms.No.III, Home dated 31.5.2007

The G.O. Ms.No.24, Home dated 9.2.2007 and G.O. Ms.No.III, Home dated 31.5.2007, were already published in A.P. Gazette.

7. The conversion is illegal since only direct recruit Asst. Commandants are only eligible for conversion and there is no channel for the promotee Asst. Commandants who fulfil other eligibility criterion for conversion. Hence, rule 3 (b) is not applicable in their case. Once they are borne on the cadre of D.S.P. (Civil) the question of giving them seniority anterior to their appointment does not arise at all.

Sri S.J. Janardhan and Sri K.Madhava Rao, Asst. Commandants, APSP Bns., were appointed to the post of Deputy Superintendents of Police (Civil) Categor-2, vide G.O. Ms.No.397, Home Department, dated 12.11.1996 and G.O. Ms.No.206, Home Department, dated 6.5.1996 respectively, in **relaxation** of Clause (C) against Category-2 under Rule 3 (a) relating to the **method of appointment** and Rule 5 (E) relating to **qualifications, including age** of the A.P. Police Service Rules, governing the post of Deputy Superintendent of Police Category 2. Further Rule 3 (b) of the said Special Rules provides that the seniority of the Deputy Superintendent of Police Category-II, appointed from the post of Deputy Superintendent of Police Category-III, shall be fixed in that manner giving them credit for their entire service in the posts of Deputy Superintendent of Police Category-III. Accordingly, their **seniority** was also already **fixed** by the Government based on the proposals of the Director General of Police, A.P., Hyderabad, vide G.O. Ms. No.261, Home Department, dated 26.8.2002 **with effect from 26.5.1993**, and G.O. Ms.No.260, Home Department, dated 26.8.2002 **with effect from 30.6.1993**, respectively. Based on the said seniority, they were promoted as Addl. Superintendents of Police (NC) vide G.O.Ms.No.19, Home Department, dated 17.1.2003, Keeping in view of these dates of seniority only, their regularization dates in the provisional seniority list was fixed as 17.6.1996 at SI.Nos.159 and 160, vide G.O, Ms.No.24, Home (Ser.I) Department, dated 9.2.2007.

**18.** As regards the availability of substantive vacancies, which has been raised by the objectors, Government have observed that if the seniority already assigned to Sri S.J. Janardhan and Sri K.Madhava Rao, vide G.O. Ms.No.261, Home dated 26.8.2002 i.e., reckoning the seniority of Asst. Commandant, APSP Bns., is taken into consideration, they **will get substantive vacancies during the panel year 1996-1997**. Only if the seniority already assigned to them vide G.O.Ms.No.260 and 261, Home dated 26.8.2002, is not taken into consideration and their seniority was considered from the date of conversion only, **they will get substantive vacancies during the panel year 2000-2001**. As such there is no merit in the contention that there were no substantive vacancies during the panel year 1996-97 against which Sri Janardhan and Sri Madhava Rao could be adjusted. Government observed that the seniority already assigned vide G.O.Ms. No.261 and 260, Home Department, dated 26.8.2002, which was taken into consideration vide G.O.Ms.No.24, Home (Ser.I) Department, dated 9.2.2007, as per the pre-amended service rules existing as on that date, is as per rules in force and ignoring the said seniority already assigned and pushing down their seniority vide G.O. Ms. No. 111, Home (Ser.I) Department, dated 31.5.2007, is neither fair nor just.

**19.** Since there is no merit in any of the objections raised as discussed above, the same are set aside. After careful examination of all the above issues, Government have decided to assign the seniority of Sri S.J. Janardhan and Sri K. Madhava Rao, converttee Deputy Superintendents of Police at Sl.Nos. 158 (a) and 158 (b) below Sri A. Radha and above Sri N. Daniel, in the final seniority list issued in G.O. 2<sup>nd</sup> read above.

**20.** Accordingly, the Government hereby issue the following amendment to the G.O. 2<sup>nd</sup> read above:

### **AMENDMENT**

In the Annexure-II of the G.O. Ms.No.111, Home (Ser.I) Department, dated 31.5.2007, in between Sl. Nos.158 and 159, the following two Sl. Nos. with the particulars are **inserted**, and the existing particulars against **Sl.Nos. 276 and 278 are deleted:**

Sl. No.	Name	Date of Birth	Date of regularization/ commencement of Probation as per Rule 33 (a) of General Rules	Deemed date of declaration of probation
<b>158 (a)</b>	<b>S.J. Janardhan</b>	<b>26-Jun-1956</b>	<b>17-Jun-1996</b>	<b>16-Jun-1997</b>
<b>158 (b)</b>	<b>K. Madhava Rao</b>	<b>30-Nov-1954</b>	<b>17-Jun-1996</b>	<b>16-Jun-1997</b>

**P. GAUTAM KUMAR,**  
*Principal Secretary to Government.*

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